



POLICE DEPARTMENT

February 14, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Rance Camarena
Tax Registry No. 925017
48 Precinct
Disciplinary Case No. 2012-6833

The above-named member of the Department appeared before me on July 26, 2013, and August 15, 2013, charged with the following:

1. Said Police Officer Rance Camarena, assigned to the 48th Precinct, while on duty, and while on Dismissal Probation, on or about June 14, 2011, having been approached by an individual, known to the Department, requesting a "Statement Of Correction By A Police Officer" form (PD660-120), did prepare and deliver said form to the individual without receiving/viewing acceptable proof of repair or correction.

P.G. 209-31, Page 1 STATEMENT OF CORRECTION BY A POLICE OFFICER

2. Said Police Officer Rance Camarena, assigned to the 48th Precinct, while on duty, and while on Dismissal Probation, on or about June 14, 2011, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer signed, under penalty of law, a "Statement of Correction By A Police Officer" form affirming that repairs or corrections were made to the subject vehicle, without having verified that said repairs or corrections were made.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office, and Respondent was represented by Michael Martinez, Esq.

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Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of Specification No. 2. Specification No. 1 is duplicative of Specification No. 2 and it is recommended that Specification No. 1 be dismissed.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeants James Weck and Gasser Antonios-Boctor as witnesses.

Sergeant James Weck

Weck has been a member of the Department for 21 years. On the incident date, he was assigned to the Internal Affairs Bureau (IAB), Group 21 as a case investigator.

On June 14, 2011, Respondent was assigned to the 48 Precinct and was the subject of a targeted integrity test. Weck was assigned to watch the front entrance of the 48 Precinct and to observe an undercover member of the service ("the undercover"). Other members of Group 21 were observing the back door to see whether Respondent would exit the building with the undercover. At that time, Respondent was on modified assignment, he had no firearm and was on dismissal probation. The integrity test was

deemed an administrative failure because “when the undercover entered the 48 Precinct, he was in possession of a summons for a correctable equipment violation for a defective brake light, and [Respondent] signed a form from the Department of Motor Vehicles, which is known as a statement of correction, stating that he had personally observed that the violation, being the defective brake light, on that particular vehicle had been corrected” when in fact he “had never exited the building to look at and inspect that vehicle to ensure that it was corrected.”

On cross-examination, Weck testified that there were two undercovers involved in the test. The plan was for the undercovers to interact with Respondent and see, based on their conversation, what would happen next. The results depended on Respondent’s reaction and reception to the undercovers. Weck watched them both go into the precinct, but could not see the car that was supposed to be inspected by Respondent. Weck admitted that the repairs to the vehicle were a secondary concern to IAB, and that the brake lights were in fact working. The undercovers told Respondent something similar to “we fixed it, come out and look at it,” to which, according to Weck, Respondent answered in sum and substance, “I’ll just sign it.” The conversation was not always in English; they also spoke in Arabic. The reason the undercovers were Arabic-speaking was because Respondent himself speaks Arabic.

Weck stated that the investigation of Respondent by IAB, Group 21 lasted for at least a year and a half.¹ Weck was not the original investigator in the case. He stated that the initial investigative log noted that a member of the service had contacted IAB alleging that Respondent had made statements in and around the precinct such as “all Americans are anti-Allah.” This same member of the service also observed Respondent at the 48

¹ The Department stipulated that the investigation of Respondent by IAB, Group 21 commenced in 2009.

Precinct telephone switchboard (TS) with a laptop open to “a catalogue page depicting briefcases and backpacks, and all the writing on said page was in Arabic.” Weck agreed that these allegations, in and of themselves, were not evidence of any misconduct, but they were “enough to get an investigation going.” The member of the service who made these allegations was later interviewed by IAB. Weck indicated that Respondent was on modified duty status prior to this log being called in, and Respondent was kept on modified duty once this “open and new allegation” was received.

Verifying whether Respondent would physically check the tail light was not the sole purpose of the integrity test: “the intent for the undercovers going in was to give a summons that was correctable so that he would exit the Precinct with them, and they would be able to engage him in conversation in a more comfortable setting where he wasn’t going to be surrounded by his peers.” The reason for that was to learn whether Respondent had any “sinister intent” behind the fact that he spoke Arabic, that he made statements around the precinct such as “all Americans are anti-Allah,” and that he was looking at an Arabic website which had backpacks (possibly to carry bombs). Respondent had an affinity for the Middle East and wanted to learn Arabic, and he had travelled to Egypt. This could simply mean that he was interested in the Middle East, or that he could potentially do harm to someone.

Weck’s unit subpoenaed Respondent’s phone records to get subscriber information to find out who his top five callers were to know whether there was any relationship to terrorists. Those five people had their information accessed as well. The suspicion was that Respondent might be a sleeper cell. The standard needed to get a subpoena is probable cause, which Weck believed they had.

No tie to terrorism was ever found. Weck investigated Respondent thoroughly and never found anything to confirm their belief that he might be a threat. During Respondent's official Department interview, he was not asked anything regarding the terrorism part of the investigation because they did not want him to know what the allegations had been. No evidence was found that Respondent practiced Islam as a faith, and he admitted to the undercovers that he was not a Christian anymore. He even told the undercovers that he had "no interest in the religion of Islam." When the undercovers claimed that a car was following them in a second integrity test, Respondent took the license plate number and informed the detective squad that a complaint was made. Respondent did not use his computer code or anyone else's computer code to check the plate number. Respondent did not receive any charges from that integrity test because it was not deemed a failure.

Sergeant Gasser Antonios-Boctor

Antonios-Boctor has been a member of the Department for 10 years and is currently assigned to the 121 Precinct. Prior to that, he was an undercover with IAB, Group 52. He was one of the undercovers who conducted the integrity test on Respondent. [Department's Exhibit (DX) 1 and 2 are an audio recording of the integrity test conducted on June 14, 2011, and its transcript.] Parts of DX 2 are translations made by Antonios-Boctor since part of the conversation was in Arabic. Antonios-Boctor was a Department-certified translator, and he believes the translation to be fair and accurate.

On June 14, 2011, Antonios-Boctor and the other undercover entered the 48 Precinct and approached Respondent with a summons for a defective tail light.

Respondent told them he would give them a statement and the summons would be dismissed. [DX 3 was the summons for the defective tail light, and DX 4 was the Statement of Correction by a Police Officer given by Respondent on June 14, 2011.] When presented with the summons, Respondent was required to physically go out and check the car or ask for a mechanic's receipt to ensure the car was fixed, but he did neither. Antonios-Boctor stayed with Respondent the entire time and is sure that he never went to check the car nor did he ask for a mechanic's receipt.

On cross-examination, Antonios-Boctor testified that the tail light of the car was in fact fixed and that what Respondent filled out was accurate, but he just had not gone to check it out personally. The integrity test in this case was primarily about Respondent being suspected of possibly being a sleeper cell who had some terrorist connection with the Middle East. Antonios-Boctor was born and raised in the Middle East and is familiar with terrorist groups and members, which is why he was chosen for this test. He came to the United States for the first time at the age of 24. Speaking Arabic alone does not raise suspicion, but Respondent went to the Middle East a couple of times for a long period which could have been to be trained as a terrorist. During their conversation, the undercovers asked Respondent a lot of questions to find out why he loved the Middle East so much, including whether he was interested in Islam. Antonios-Boctor was dressed as an imam, the equivalent of a priest in the Muslim religion, and told Respondent of a mosque close by he could go to. Although Respondent recognized the fact that Antonios-Boctor was dressed as an imam, he stated he had no interest in Islam, he did not pray, and he did not go to the mosque. Antonios-Boctor agreed that Respondent "made it pretty clear he was into the culture, he was into the architecture, he

is into the language.” Respondent was excited to have someone to speak Arabic with in the 48 Precinct. He even showed the undercovers pictures of his trip to Egypt and told them he named one of his children Cairo because he loved the city.

Antonios-Boctor testified that when he returned from the integrity test that day, he concluded that Respondent was not a terrorist. He told the case officer from IAB, Group 21 that Respondent was not a sleeper cell, but Antonios-Boctor did not write it down anywhere. A few months later, Antonios-Boctor was asked to participate in a controlled phone call with Respondent. That was when he told Respondent he was being followed by another vehicle. Respondent told Antonios-Boctor there was nothing he could do for him unless he came to the precinct. When Antonios-Boctor came to the precinct, he gave Respondent the license plate number. Respondent went upstairs (to the detective squad). When Respondent returned, he told Antonios-Boctor that “he cannot do it.” Antonios-Boctor indicated that he has had no involvement with Respondent after that.

Antonios-Boctor also had an undercover assignment at Wacky Wok, a restaurant in Brooklyn. Respondent often went to this place and the owner, John Mudd, was thought to have terrorist sympathies. Antonios-Boctor visited the restaurant twice but never saw Respondent there so the investigation was discontinued.

Respondent's Case

Respondent testified in his own behalf.

Respondent

Respondent has been a member of the Department for about 13 years. He was assigned as a police officer to Transit District 4 for about six years, and he was

“eventually promoted” to the rank of sergeant. On May 1, 2008, he was placed on modified duty for the good of the Department. Respondent surmised that he was placed on modified duty to prevent him from completing his probationary period as a sergeant, in order for the Department to subsequently demote him. On September 15, 2008, Respondent was demoted from the rank of probationary sergeant to police officer because, among other things, he performed overtime without prior approval and he altered an excusal from shaving memorandum issued by the Medical Division.² Respondent’s modification status since May 1, 2008, has prevented him from being promoted again even though he has passed subsequent sergeant’s exams. He has also been unable to serve his dismissal probation because again he must be full-duty in order for the dismissal probation to start.

Concerning his religious beliefs, Respondent was born into a Catholic family but he never really practiced and was not baptized, and at some point he stopped following religion altogether. He became an agnostic. He also never adopted a new faith. Respondent loves traveling; he has traveled to about 31 countries worldwide. His wife has accompanied him on all of his trips around the world. In 2008, he and his wife went to Egypt for two weeks, and he fell in love with the Arabic language. Upon his return, he used the Rosetta Stone language program and enrolled in the ABC Language Institute. He believed that knowing the language could be used to further his career since not many people in the Department speak it. He has visited multiple countries in the Middle East and Africa but was never quiet about it; he told his co-workers about it openly.

² In 2010, Respondent went to trial on these charges and forfeited 30 vacation days and was to be placed on one year dismissal probation.

Respondent was assigned to the 48 Precinct upon his demotion, and he continued his modified duty status. His job as a TS operator is to have face-to-face conversations with people who walk in to see if he can help them. On June 14, 2011, Respondent saw two men enter the station house, one of whom "came in dressed in Islamic tradition, Islamic robe, which would indicate he was a religious figure." Respondent approached the undercover and engaged in a dialogue, some of which was in Arabic. Because the undercover presented himself as a holy man, Respondent showed the utmost respect, "as I would anybody else." Respondent was excited to be able to speak Arabic since the 48 Precinct mostly encompasses Blacks and Hispanics. He and the undercover exchanged pictures and travel experiences. Respondent exaggerated when talking about the time spent overseas and lied about studying in Egypt only to extend the conversation and develop trust. Before leaving, the undercover requested Respondent's phone number because he said he was an imam at a mosque that gave free Arabic lessons, which Respondent decided to take advantage of.

With respect to the form that was filled out, Respondent was supposed to verify the car was fixed either by visual inspection or by a mechanic's receipt of repair. Usually, officers fill out the form and tell the people concerned to mail it in with the summons so it can be dismissed, meaning that people only come in once the condition has been corrected. This happens every day. Respondent has never experienced a person coming in saying they corrected a condition when it has not been corrected. Respondent could have gone outside, but on that day he did not. The reason, he testified, is that he created a bond with the undercover and he did not think an imam would lie, so he "took his word as a form of trust." He thought it would be insulting after a 20-minute

conversation to still doubt him and go check the car. In October 2011, he received a phone call from that same undercover, still acting as an imam, about a car following him. Respondent told him to come to the precinct. The undercover came to the precinct that same day and provided Respondent with a license plate number. Respondent went to the detective squad upstairs with the plate number for consultation. A detective ran the plate and told Respondent that it belonged to a Department vehicle. Respondent returned downstairs and "politely dismissed the [undercover]. I told him, listen, I can't help you with anything, I'll get back to you, and I never did get back to him." Respondent did not disclose to the undercover that the plate belonged to a Department vehicle.

During Respondent's official Department interview on December 2, 2011, he was not asked any questions about connections to terrorism. He was asked questions related to the two integrity tests.

In February 2012, Respondent received a copy of the charges against him in this proceeding and learned he was under investigation for being a possible terrorist. Respondent acknowledged that he brought his laptop to work at times, which he used during his meal or break periods. The reason he was reading Arabic writing on his laptop was because one of his Arabic courses had an interactive CD which he used to review lessons. And concerning the website with backpacks, Respondent denied it ever happened since there was no wi-fi service at the command. It was impossible for him to check any websites. Regarding the comment he allegedly made along the lines of Americans hating Islam, Respondent denied it ever happened, calling the allegation "preposterous" and that he would never make any comments against the United States. Respondent does not know who made these allegations, and he felt like he was being

discriminated against. No one has told him why he is still on modified duty status. His career is at a standstill, and he believes he is the victim of discrimination.

Lastly, the reason Respondent goes to [REDACTED] restaurant, is because they do not use the saturated oils usually used by Chinese restaurants.

On cross-examination, Respondent testified that the statement of correction that he filled out contained a certification where, under penalty of perjury, he was essentially attesting to the fact that he verified the tail light had been repaired. But he filled it out without verifying it because the undercover told him the correction was made.

When asked whether he was on dismissal probation at the time of the incident, Respondent replied that to his understanding dismissal probation does not start until an officer is full-duty, but he was never restored to full-duty. There is an issue as to whether Respondent was ever placed on dismissal probation or not.

When some could consider it "cutting corners," Respondent believed it was enough to have a verbal confirmation to sign the statement in this instance. Prior to his official Department interview, he was not aware of the requirement for a police officer to physically verify the vehicle's condition or to get a receipt from a mechanic. He thought it was sufficient for a person to come to the station house and say they fixed it since no one has ever, in his experience, come to the station house to lie about making repairs.

FINDINGS AND ANALYSIS

Specification No. 2

Respondent stands charged herein in that while assigned to the 48th Precinct, while on duty and while on Dismissal Probation, on or about June 14, 2011, did engage

in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Police Officer signed, under penalty of law, a "Statement of Correction By A Police Officer" form affirming that repairs or corrections were made to the subject vehicle, without having verified that said repairs or corrections were made.

Evidence adduced at trial established that Respondent was at the 48 Precinct when a person dressed as an Islamic imam came into the precinct requesting assistance. Respondent testified that he left the TS area and went to assist the imam who he knew to hold a position in the order of a high priest, but in the Islamic religion. The imam advised Respondent that he had received a summons for a broken tail light. He stated that he had the tail light fixed. Respondent advised the imam that he needed to submit the form he received from Respondent and the summons would be dismissed.

Respondent acknowledged that at no time did he either review a repair slip from the imam stating that the repair to the tail light had been made; or did he exit the precinct and make personal observations of the imam's vehicle to ensure that the broken tail light had been repaired. Respondent testified that in his years of experience being a police officer, no one ever came to the station house stating that they repaired the car when they had not. In addition, he stated that he acknowledged the high ranking position that the imam held in the Muslim community and gave him the benefit of the doubt that what he stated was in fact the truth. Respondent testified credibly that he did not want to insult the imam after a 20-minute conversation by checking the vehicle.

The fact that Respondent believed the civilian member was a Muslim cleric does not obviate Respondent's responsibility to verify the correction in some manner before completing the "Statement of Correction by a Police Officer" form. Although

Respondent argued that he verified the correction by taking the word of a religious figure that does not satisfy his obligation, particularly where the form requests him to attest to the facts as stated. The form states in pertinent part that the police officer affirms under the penalty of perjury that the traffic violation issued in the summons has been corrected or repaired and the police officer places his signature to that effect.

Nothing prevented Respondent from escorting the imam out to his car and then asking him politely to show him his tail light. Thus, there is a requirement that Respondent attest under the penalty of perjury that he verifies that the correction at issue has been made. Taking the word of someone does not satisfy the verification requirement.

Accordingly, Respondent is found Guilty of Specification No. 2.

Specification No. 1

Respondent stands charged herein in that while assigned to the 48 Precinct, while on duty and while on Dismissal Probation, on or about June 14, 2011, having been approached by an individual known to the Department, requesting a "Statement of Correction By A Police Officer" form (PD 660-120), did prepare and deliver said form to the individual without receiving/viewing acceptable proof of repair or correction.

Specification No. 1 is duplicative of Specification No. 2. Specification No. 1 states that Respondent prepared and delivered the form without receiving or viewing acceptable proof of repair or correction. Specification No. 2 states that Respondent signed the form, affirming that repairs or corrections were made without verifying them. In essence, they are saying the same thing. Specification No. 2 may appear more serious

because it refers to the affirmation and verification; however, there is no major difference in the substance of Specification Nos. 1 and 2. In addition, if Respondent signed the form, it is implied that he delivered it to the member of the public.

Accordingly, it is recommended that Specification No. 1 be dismissed for being duplicative of Specification No. 2.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N. Y. 2d 222 (1974).

Respondent was appointed to the Department on March 1, 2000. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

Respondent has been found Guilty of signing, under penalty of law, a "Statement of Correction by a Police Officer" form affirming that repairs or corrections were made to the subject vehicle, without having verified that said repairs or corrections were made. The Assistant Department Advocate (The Advocate) asked for a penalty of termination. The Advocate argued that given the fact that Respondent was already on dismissal probation for misconduct that involved trustworthiness (falsifying a document), that this additional charge involving trustworthiness warrants termination.

Whether Respondent actually commenced his dismissal probation period is not at issue before this Court. A review of Respondent's personnel file indicates that in 2010, Respondent was to forfeit 30 vacation days and to be placed on one year dismissal probation. This matter was approved and signed off by the Police Commissioner on

December 20, 2010. For all intents and purposes, Respondent was found Guilty of that matter prior to the instant charges in June 14, 2011.

What is clear is that even if Respondent were on dismissal probation at the time of the incident, he was not summarily terminated. Instead, a decision was made to present this matter for trial to flesh out the facts. In light of the fact that Respondent had a disciplinary hearing in this matter, the Court finds that the penalty of termination far exceeds what would otherwise be a penalty recommendation for an administrative failure such as this. Respondent raised discrimination as an affirmative defense in this matter. He argued that this case involved more than a defective tail light, but an allegation that he was a terrorist which factored into the penalty recommendation. This Court finds that if there is any discrimination here, it is in the penalty recommendation for termination. On its face, the misconduct alleged involves attesting to the fact that Respondent saw a tail light fixed when he did not. At best this is a ministerial matter. This summons would not result in litigation outside of traffic court. To recommend a penalty of termination in this instance would be a first before this Court. In addition, the fact that Respondent relied on the representation of a "man of the cloth" is not a justification, but it is a mitigating factor.

There are several issues which arose out of this case. The IAB investigator from Group 21 (Sergeant Weck) testified that there was more to the integrity test than the broken tail light. He stated that IAB received an allegation that Respondent was working the TS with a laptop. The laptop contained pictures of suitcases and all the writing on the screen was in Arabic. In addition, as part of the allegation it was elicited that, Respondent stated words to the effect that All Americans are anti Muslim. Based on this

information, IAB opened an investigation on Respondent. This led to the targeted integrity test which Respondent failed. It must be noted that during that integrity test, Respondent was approached by two undercover agents who spoke to him in English and Arabic. Although Respondent failed that integrity test, a second integrity test spun out of the first. Respondent exchanged information with the two Arab undercover agents. They later approached him about being followed and they wanted him to run a license plate. Respondent gave the information to the Detective Bureau in his command who ran the license plate which came back to a Department vehicle. Respondent relayed to the people that no information was found on the vehicle and Respondent passed the second integrity test.

Weck advised this Court that although allegations of terrorism were not substantiated against Respondent, he was not exonerated. The allegation was unsubstantiated. It was determined that there was no evidence showing that Respondent engaged in terrorist activity. However, there was no clear indication that Respondent was not engaged in terrorist activity either. This leads the Court to believe that Respondent is still under investigation with respect to this initial allegation and has no objective way of ever clearing his name.

The problem with this account is that the undercover agent of Middle Eastern descent, Sergeant Antonios-Boctor, played a significant role in this investigation. While he was not the case investigator regarding the overall IAB callout, he was the investigator charged with creating and implementing the targeted integrity tests. Antonios-Boctor's background is of significance. He is Egyptian born and bred. He spent his formative years living in Egypt. He did not come to the United States to live until he was a man in

his twenties. He testified credibly before this Court that because of this, he is personally familiar with sleeper cells and terrorists. He had an opportunity to gain the trust of Respondent and determined that Respondent is not part of a sleeper cell or a terrorist. This determination was made on the same date as the second targeted integrity test yet Respondent remained on Modified Assignment from May 2008 until the present. These years on Modified Assignment must be considered on the affirmative defense of discrimination.

While the Advocate wanted to make this a straightforward case of Respondent attesting to a broken tail light being fixed when he made no such observation or reviewed no such repair report stating the same; the truth of the matter is this case was not about a broken tail light. Antonios-Boctor who conducted the integrity tests attested to that fact and that the targeted integrity tests were about gaining the trust of Respondent to see what activities he was engaged in. No such activities were discovered other than Respondent and his wife traveled abroad a lot and Respondent had a love for Middle Eastern culture not the religion.

Based on the above, the lengthy investigation, the five years placed on Modified Assignment, the mitigating factor mentioned and a review of Respondent's service record, it is recommended that Respondent forfeit 20 vacation days.

APPROVED

MAR 26 2014
William J. Bratton
WILLIAM J. BRATTON
POLICE COMMISSIONER

Respectfully submitted,

Claudia Daniels DePeyster
Claudia Daniels-DePeyster
Assistant Deputy Commissioner - Trials

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER RANCE CAMARENA
TAX REGISTRY NO. 925017
DISCIPLINARY CASE NO. 6833-2012

In 2010 and 2012, Respondent received an overall rating of 3.5 "Above Competent" on his annual performance evaluations. In 2011 and 2013, he received a rating of 4.0 "Highly Competent." Respondent has received no medals in his career to date.

[REDACTED]

On August 10, 2001, when Respondent was a probationary police officer, while off duty, he received Charges and Specifications for causing the destruction of property belonging to another and failing to remain on the scene of an unusual occurrence (domestic). Respondent pleaded Guilty in 2002 and received a penalty of the forfeiture of 15 vacation days and had his probationary period extended by six months.

On September 15, 2008, Respondent received a non-voluntary demotion from the rank of sergeant to police officer.

In 2010, Respondent forfeited 30 vacation days and was placed on dismissal probation for submitting three overtime slips for compensation for overtime he did not perform, performing overtime without prior authorization on 36 occasions, signing in at the wrong time, failing to properly safeguard his service firearm and Department-issued Metrocard, and altering a Medical Division memorandum in order to give himself three additional months of being excused from shaving.

For your consideration.



Claudia Daniels-DePeyster
Assistant Deputy Commissioner Trials